

April 11, 2007

Introductions were held.

Bill Egan: (Referring to ARCO) When they set up this wall, will it be at a time when the fish are moving through? Will this not destroy many of the fish that venture near the building site?

Steve asked how many outfalls are within that site:

Tom: There is one. Also, there is one adjacent to the property but downstream.

January minutes correction: Jane is Executive Director of OCEH.

Lien should be lean Bill Egan moved to approve. Jim 2nd.

Members approved.

Jackie read March minutes. They were approved with corrections from Barbara Smith. Jeanne Moved. Bill E seconded.

Judy said Sean could not make it to the May Arkema-PDC so it should be changed.

The Natural Resource Damage Assessment Trustees will now present their report.

All of the NRDA members include:

Department of the Interior, National Oceanic and Atmospheric Administration (NOAA), State of Oregon, Confederated Tribes and Bands of the Yakama Nation, Confederated Tribes of the Grand Ronde Community of Oregon, Confederated Tribes of the Siletz Indians of Oregon, Confederated Tribes of the Umatilla Indian Reservation, Confederated Tribes of the Warm Springs, Reservation of Oregon, and the Nez Perce Tribe. Collectively, pursuant to CERCLA Section 107 (f) and Section 300.600 of the National Contingency Plan, these sovereign entities are trustees for all of the natural resources in the environment potentially injured by releases from and into the Portland Harbor Superfund site.

Trustee Responsibilities

- Collect and analyze information to assess the type and level of injuries to natural resources and the loss of services provided by these resources;
- Develop a plan to restore injured resources to their pre-incident condition; and
- Implement the plan.

Presenting: Billy Bartman, representing the Siletz tribe. Mary Baker, Jeremy Buck representing the ODFW.

Mary Baker—Presentation

For NRDA, there are two parts to the Portland Harbor's CERCLA liability
(1) Clean-up (2) natural resource injury

Ms. Baker finds CERCLA an effective solution to the Portland Harbor's contamination. Also, the CERCLA law is very useful in protecting *natural resources*. There are several sections to the approach NRDA uses to produce results.

1. They follow the CERCLA Remedy to define the problem.
2. NRDA stipulates its own rules for restoration.
3. Ultimately, the goal is to make the public "whole" regarding injuries to natural resources.
4. Damages are defined as compensation, not punishment.
5. The foremost objective is to restore resources to "pre-release" condition by determining the baseline conditions and then compensate for lost use of the resources.
6. Focus is on injuries associated with habitat.

NRDA & TRUSTEES

Steve: How do you become a trustee?

Response: The Tribes do through treaty rights and they select a delegate. The state agencies both choose a representative as well as the Federal agencies, NOAA and the Department of Interior. Each Trustee brings claim(s) for injuries to resources under their respective management or control. Trustee can release parties from liability if actions are taken to PROTECT and RESTORE natural resources perhaps in an adjacent location.

What is included as a natural resource?

Land, water air, biota, air, water, ground water, drinking water supplies and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the U.S., any state or local government, any foreign government, any Indian Tribe, or, if resources are subject to a trust restriction on alienation, any member of an Indian Tribe.

Injury and Damage

Injury is defined in scientific terms. Injury is described as "an adverse impact on resources or services resulting from a release.

Damage is described under CERCLA. The natural resource "*damages*" are the amount of money sought by the Federal or State agency acting as trustee as compensation for injury, destruction, or loss of natural resources as set forth in Section 107 (a) in CERCLA.

Under OPA [section 1006(d)(1)], the measure of natural resource damages is "(A) the cost of restoring, rehabilitating, replacing, or acquiring the equivalent of, the damaged natural resources; (B) The diminution in value of those natural resources pending restoration; plus (C) The reasonable costs of assessing those damages. The OPA rule references section 1002(b) of OPA, which specifies the damages for which responsible parties are liable". --15CFR990.30

1. Repair of Ecological Injuries

The Natural Resource Trustees have formally adopted a Preassessment Screen for the Portland Harbor site for further consideration. They will address benthic invertebrate growth, reproduction, and survival. Included will be an examination of areas of sediment contamination. Services that are provided by these natural resources include habitat for trust resources, including food, shelter, breeding, foraging, and rearing areas, and other factors essential for survival; resource use.

Human Services such as hunting and fishing will be evaluated. Recreation non-consumptive uses such as wildlife viewing, photography, and other outdoor recreation activities; primary and secondary contact activities such as swimming and boating. Also, use of drinking water, navigation. Cultural-tribe al spiritual uses—cultural, spiritual, and religious uses. Generally, it includes: Other Injuries, lost recreational opportunities and cultural losses.

2. Determine the nature and extent of injuries to natural resources

Steps—further considerations in the *Preassessment*.

- Is injury likely?
- Must determine injury and loss of services

3. Restoration Planning

- Determine restoration and other compensation—opportunity to make things better.

4. Cooperative assessment

- Filing legal claims
- Then try to set up a consent decree.

Jeremy Buck---Oregon Fish & wildlife

He works on contaminants for wildlife.

Preassessment screen.

Sampled from boat, he found unique specimens in the Lower Willamette basin. Other wildlife found were Peregrine falcons, bald eagles, and osprey, with 20 species of fish that use the Lower Willamette. Mussels that live 100 years. Giant Columbia River spire Snail. Indicator of pristine waters. Traditionally lived in the Willamette.

What is going on with this wildlife?

Has there been a release of hazardous waste?

Did it cause injury?
Is data obtainable?
Will the clean-up remedy the injury?

Answers

Yes, release has occurred. Petroleum. Organochloring pesticides, PCB's. DDT
Volatile organics Industrial wastes
Metals—shipping, industrial wastewater. Salvage, mining upriver.

Could we have injury to these resources? Yes.

There are contaminants in sediment

Contaminants in water.

Water: Exceeds criteria DDT, DDE, PCBs, PAH's

Sediment: Bioassay test failures

Invertebrates: Transfer to clam predators, RM 6 to 8.6

Juvenile salmon exceed protective values for reproduction.

Is there enough data? Is it cost efficient to gather?

Data sufficient. It will be cheap enough?

Study cost should not exceed restoration costs!

Response actions from cleanup will not sufficiently remedy injury in the PH S
without further action.

Will only address injuries after 1980. Or be continuing release still contaminating.

All five criteria have been met. Why now?

Why do this early. It will be cost efficient. Jeremy used LWG'S STURGEON samples.
They did a sturgeon health survey.

Integration of NRDA with Remediation.

Injury

Use of risk assessment data

Identify additional studies needed to answer injury

Opportunities for Public Involvement

Billy Barquin

5033=225-0777

Katherine Pease

562-980-4077

Jim asked why could the restoration be implemented along with remediation.

Jeremy: It depends on the area. Sometimes setting up areas to reattract species to
their historical location is not desirable.

Mary: sometimes the cleanup must be completed thoroughly before you would ever
want the return of species.

Steve: Why wasn't there a restoration of McCormick & Baxter? NOAA person: There was no PRP to do it. It was done with state and fed money.

Bill Egan: Schnitzer has been sending contaminants into the river. In the International slip, the wildlife. Jim from PGE said the LWG has done a lot of testing, core samples, and bioassays--lots

Bill McCauley: I made a comment to the EPA that the GASCO dredging would not work. But they said they had to do it that way because of litigation.

Mary: We will hold public meetings, usually in conjunction with the EPA. We will consider public opinions in our strategies.

Jane: What do you think of the RI/FS so far. You seem to be hesitant about your conclusions. Billy said that the cleanup will address the sources at least so far. Too early to say what the final cleanup will be.

Robin: Will the public be able to give input on the NRDA restoration?

Mary: Not species by species.

Jackie: Why not test salmon? 0

Mary: What are the resources that would give us the best overall picture. That would be the most cost effective for what the end goal to be achieved.

Bill E: looking at the 1980's. Do you feel it is worse now or then? The amount of pollution seems the same. No direct reply

Rick Kepler from ODFW present.

Steve: How long before the NRDA's role would be concluded? It depends on how long the PRP's take to cooperate.

Girl in back: How do you determine restoration of each species throughout the system?

Steve: Sounds like you need an economist. Aron Borok said he was the economist on the board.

Jan: Do we not have to retain the balance rather than over restore for one area and not another.

How will you solve groundwater issues? Jim Anderson The DEQ says they are working on the source control. Much

Chris Ricewood: How will the NRDA convene meetings for the PRP's?. PRP's should get in touch with Billy or Katherine Pease.

Chris: How does a PRP get involve with the cooperative group?

Robin invited Chris to other meetings. Chris said he represented parties from the Blue Water Group.

Mary: Address restoration from the perspective of what would the area look like if there were no contaminations and look at the habitat